

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**DENNIS HUBBARD,**

**Defendant.**

8:06CR274

## ORDER

This matter is before the court on defendant's motion to continue trial [16]. The motion is untimely, and the defendant has known of the November 7, 2006 trial date since September 28, 2006. Nor has the defendant filed a waiver of speedy trial, as required by the Local Rules of Practice and the Progression Order [11] entered by Magistrate Judge Thalken on September 7, 2006. Although Mr. Hubbard resides in Chadron, Nebraska, he has not been detained and there is nothing in Judge Thalken's Order Setting Conditions of Release [12] that would prevent him from communicating, either by telephone or in person, with his attorney about this matter. Upon review of the record, I find that the defendant has not shown good cause for a continuance.

**IT IS ORDERED** that the Motion to Continue Trial [16] is denied.

Pursuant to NECrimR 57.2, a party may appeal this order by filing a "Statement of Appeal of Magistrate Judge's Order" within ten (10) days after being served with the order. The party shall specifically state the order or portion thereof appealed from and the basis of the appeal. The appealing party shall file contemporaneously with the statement of appeal a brief setting forth the party's arguments that the magistrate judge's order is clearly erroneous or contrary to law. The filing of a statement of appeal does not automatically stay the magistrate judge's order pending appeal. *See* NECrimR 57.2(d).

**DATED November 2, 2006.**

**BY THE COURT:**

**s/ F.A. Gossett**  
**United States Magistrate Judge**